

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1040 – SB 1258

April 12, 2011

SUMMARY OF AMENDMENTS (005878, 005925): Deletes the original bill. Establishes regulations for pain management clinics and requires such clinics to apply for certification with the Department of Health (DOH). Authorizes DOH to charge a fee for the issuance of a certificate. Defines a “pain management clinic” as a privately-owned facility in which a medical doctor, an osteopathic physician, an advanced practice nurse, and/or a physician assistant provides pain management services to a majority of the patients through prescription of opioids, benzodiazepines, barbiturates, or carisoprodol, but not including suboxone, and the physician treats the patients for more than 90 days in a 12-month period. Requires the Commissioner of Health, in consultation with applicable Boards, to promulgate rules necessary to implement this part.

Authorizes the Board of Medical Examiners, the Board of Osteopathic Examination, the Board of Nursing, and the Committee on Physician Assistants to inspect and investigate the clinics, and discipline clinics for any violations of the provisions of this bill. Requires clinics to be provided reasonable notice prior to the inspections, to the extent possible. Certifications will remain effective for two years from the date of issuance and DOH is authorized to grant a 90-day grace period to renew the certificate. Authorizes DOH to impose lawful disciplinary action against a pain management clinic if such clinic was issued a certificate but no longer meets the requirements of this part. Requires any Board that assesses any discipline or penalty against a provider that it licenses to inform the Department within 30 days of taking such action. Requires each pain management clinic to have a medical director who is a licensed physician or osteopathic physician who is responsible for all of the requirements relative to the certification of the clinic. Requires the medical director to be physically present at the clinic at least 20 percent of the clinic’s weekly total number of operating hours. Subjects a practitioner who provides pain management services at an uncertified pain management clinic to an administrative penalty of \$1,000 per day. Requires a practitioner to document the reason for prescribing or dispensing more than a 72-hour dose of controlled substances for the treatment of chronic nonmalignant pain.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Unchanged from the original fiscal note.

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Assumptions applied to amendments:

- The Commissioner of Health and affected Boards will promulgate rules for the regulation of pain management clinics. The Boards will develop forms, and amend the already-existing regulatory boards' computer system to include the new category of licensure to track initial licensure, renewals, and disciplinary actions. The Boards will also need to post the medical director requirement on their respective websites.
- Rulemaking can be accomplished during regularly scheduled Board meetings and all other requirements can be accommodated within existing resources of the Boards.
- Any inspections of the pain management clinics necessary to ensure compliance with the provisions of this section can be conducted utilizing existing resources of the Office of Investigations.
- The Department of Health will establish fees for the initial certification and biennial renewal. Any fees collected will be sufficient to cover the administrative and regulatory costs of the certification program resulting in a not significant net impact.
- Pursuant to Tenn. Code Ann. § 4-3-1011, all health-related boards are required to be self-supporting over a two-year period. As of June 30, 2010, the Board of Medical Examiners had a balance of \$890,444.43, and the Board of Osteopathic Examination had a balance of \$95,105.43. The Board of Nursing had a balance of \$346,921.17 in FY09-10 and a deficit of \$143,117.02 in FY08-09. As of June 30, 2010, the Board of Nursing's cumulative balance was \$322,946.32. The Committee on Physician Assistants had a deficit of \$1,954.23 in FY09-10 and a balance of \$32,271.71. As of June 30, 2010, the Committee's cumulative balance was \$58,369.76.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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